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ABSTRACT

This report analyzes and evaluates the interaction between public school desegregation (of both student and faculty populations) and faculty labor relations within the Los Angeles, Boston, and Dade County (Florida) school systems. Specific changes in personnel policies and collective bargaining agreements are examined and compared across three systems. The impact of environmental factors and enrollment trends on the course of desegregation and the conduct of labor relations are also discussed. Following the introduction, section two outlines some of the components of court desegregation orders and discusses the ways in which desegregation affects faculty labor relations. Section three includes case studies which examine the relationship between desegregation and faculty labor relations in the three school systems. Section four evaluates the success of the court's regulatory intervention in the three systems and suggests some of the factors that explain the observed variations of successful intervention. (JCD)

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LADOR RELATIONS AND PUBLIC SCHOOL DESEGREGATION IN LOS ANGELES, DADE COUNTY AND BOSTON

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I INTRODUCTION

Even though efforts to desegregate the nations public schools have had a long and often tumultous history, desegregation came to include a new set of issues in the 1970s. For, over the last decade the desegregation of public schools increasingly involved teachers' unions that had become an important force within public education. The interaction between labor relations and desegregation exerts a critical influence on the course of public education, and yet, that interaction has received little critical attention.

This report analyzes the interaction between desegregation and faculty labor relations within the Los Angeles, Boston and Dade County (Florida) school systems. One objective of the analysis is identification of the impacts desegregation exerted on the conduct of labor relations within those three school systems. Throughout this report, particular attention is paid to those instances in which desegregation led to specific changes in either personnel policies or collective bargaining agreements. This is not to deny that desegregation exerts many subtle impacts on such things as teacher attitudes or educational programs. Rather, specific changes in either policies or contract language are focused on in this report because that provides a way to compare the experiences across the three school systems.

This comparison is crucial to another objective of this report, namely, evaluation of the quality of the interaction between desegregation and labor relations. As part of this evaluation a comparison is made of the degree to which disagreements that arose between the various parties during the desegregation process were effectively compromised. A structure

is provided for this evaluation by viewing the court's actions in desegregation as a form of regulatory intervention. In this view the school administration and the teachers' union are the regulated parties and the federal court is the regulator. A measure of the success of this regulatory intervention is the extent to which the court induces the regulated parties to devise voluntary and cooperative mechanisms that fascilitate attainment of desegregation.

In order to carry out this evaluation it is necessary to recognize and clarify some of the "environmental" factors that influenced the course of desegregation within the three school systems under study. For one thing, the scope of court desegregation orders differed across the three systems. In Boston, for example, the courts desegregation orders included orders to increase the hiring of minority teachers. Desegregation in Los Angeles and Dade County, on the other hand, did not include any court orders to increase minority hiring but did include efforts to integrate the school faculties.

Enrollment trends, which exert a significant impact on the conduct of labor relations, also differ across the three school systems. In Boston, desegregation occurred at a time when enrollments were undergoing substantial decline while in Dade County enrollments were expanding during the early phases of desegregation and in Los Angeles enrollments were undergoing slight decline. In all three systems desegregation occurred at a time when teachers were organized in either an association or union that participated in decision-making. Yet, differences in the extent and history of that participation produced differences in the way labor relations proceeded during desegregation.

These three school systems obviously varied across a large number of dimensions. However, it is not my intent to explore all of these differences. Rather, the impact of the environment in which desegregation occurs is discussed in the context of an evaluation of the quality of the court's regulatory intervention. Consideration of environmental factors is included in the analysis to the extent that it helps to clarify why court actions were more successful in one situation versus another.

The report proceeds in the following manner. The next section outlines some of the various components of court desegregation orders and discusses in general terms some of the ways in which desegregation affects the conduct of faculty labor relations. Section 3 provides case studies of the interaction between desegregation and faculty labor relations in the three school systems. And finally, Section 4 evaluates the success of the court' regulatory intervention in the three systems and suggests some of the factors that explain the observed variations in success.

II THREE COMPONENTS OF SCHOOL DESEGREGATION

There is more to the desegregation of public schools than the reassignment of students as part of efforts to provide integrated education. School desegregation also has included the reassignment of faculty and staff in an attempt to racially balance their distributions across schools within a particular district. In addition, desegregation has involved court orders to increase minority faculty hiring. Consequently, to understand how desegregation interacts with labor relations it is first necessary to identify some of the general ways that each of these three components of desegregation affect the conduct of labor relations.

1) Faculty Integration

Faculty integration concerns efforts to remove the racial segregation of teachers within a given school district. In the South, one of the features of the dual system that historically prevailed in public schools was the complete segregation of faculties with black teachers assigned to those schools attended by black school children and white teachers assigned to schools attended by white children. In the North, although this form of segregation was often not as complete, teachers assignments were historically made along similar segregated lines. Court orders and administrative efforts by the Office for Civil Rights of the U.S. Department of Health, Education and Welfare during the 1960s and 1970s mandated an end to faculty segregation.[1] Commonly a faculty racial balance goal was established stipulating that the racial composition of the faculty within every school in a district match the racial composition of the faculty in the district as a whole.

Attainment of racial balance within the faculty necessitated a substantial number of teacher reassignments. Those reassignments raised a number of issues regarding labor relations policies. One question is whether the faculty reassignments are mandatory or voluntary. A related question is the role, if any, that seniority plays in the reassignment policy.

In the face of the discomfort associated with these teacher reassignments, participants in the collective bargianing process often engage in a search for mechanisms that ease the process. One way to lessen the pain of reassignment is to establish incentives that either encourage voluntary transfer or compensate some of the costs of mandatory reassignment. Potential mechanisms include a form of "incentive pay" that

provides additional compensation to teachers assigned to particular schools or "return rights" that provide special privileges after a given period of assignment in designated schools.

2) Minority Faculty Hiring

Desegregation also has included efforts to increase the overall representation of minority teachers within a school district. In the early stages of court-ordered desegregation attention centered around the displacement of black teachers that sometimes followed desegregation. There is substantial evidence that black teachers were disproportionately displaced in many schools in the aftermath of the merger of previously segregated dual school systems.[2] In the late 1960s, in a number of cases the federal courts intervened and issued orders that prevented black faculty displacements.

By the mid 1970s, court desegregation orders not only prevented black faculty displacement but also included efforts to increase the hiring of new black faculty. Courts often justified orders to increase minority hiring on grounds that past discriminatory practices of school boards limited the hiring of black faculty. Federal courts also expressed concern for the function that minority faculty served as role models for minority students.

Some attempts have been made to increase minority hiring by encouraging teacher aides to upgrade their educational attainment or in other ways expand faculty recruitment. Collective bargaining has been involved in such matters both in defining the incentives for aide upgrading as well as delineating the duties that aides or other persons without teaching credentials are allowed to perform in the classroom.

Significant challenges are posed when court orders to increase minority faculty hiring affect school districts that are experiencing enrollment declines, a common occurrence in the 1970s. In the midst of enrollment declines, school systems are under pressure to either layoff teachers or reduce their numbers through attrition. Simultaneous efforts to increase the number of minority faculty while reducing total employment levels confront the dilemma as to how affirmative action can be accomplished while seniority rights are preserved for the existing faculty.[3] The problems posed by this conflict between affirmative action and seniority are sometimes direct, as when they involve court decisions whether or not to override seniority provisions within contractual layoff procedures. But, at other times, the impacts of this confrontation are indirect and involve such things as subtle efforts by the teachers' union to protect the privileges of senior teachers. An example of the latter appears in our analysis of the Boston school system where the hiring of teachers on a provisional basis in the face of a layoff threat is utilized as this sort of protective device.

3) Student Integration

The reassignment of pupils that is associated with student integration poses issues regarding faculty assignments and hiring that are similar to those initiated by the other two components of desegregation. As with faculty racial balancing, student integration requires decisions regarding both the method and scope of teacher reassignments as well as the form of any incentive devices used to facilitate those teacher transfers. And, to the extent that student integration lends to declines in white student enrollment ("white flight") then it may exacerbate any existing conflicts between seniority and affirmative action.

Court orders concerning student integration also frequently mandate revisions in educational programs. For example, courts have required that additional resources be provided to schools in core urban areas as well as mandating the expansion of bilingual instruction as part of their desegregation orders. Teachers and their union representatives sometimes participate actively in discussions regarding these court-mandated revisions in educational programs.

III CASE STUDIES OF DESEGREGATION IN LOS ANGELES, DADE COUNTY AND BOSTON

1) Los Angeles

A. History of the Desegregation Case

The pupil desegregation case in Los Angeles began with a class action suit brought in 1963 against the Los Angeles Board of Education.[4] For a period of time after the class action was filed the case remained relatively dormant while petitioners and the federal court attempted without success to induce the school board to implement voluntarily a desegregation plan. A trial followed which ended in a court finding in 1970 that the Los Angeles school system was a dual system that was becoming increasingly segregated. That decision was appealed and in 1976 was upheld by the California State Supreme Court.

After rejecting one desegregation plan submitted by the Los Angeles School Board, the court allowed implementation of a desegregation plan in 1978 that included mandatory pupil reassignments in grades 4 through 8, and provided voluntary transfer programs in all other grades. The federal court subsequently rejected a request by the school board to return to an all voluntary plan and instead, in 1980, the court imposed a sweeping new pupil desegregation plan.

In his July 1980 desegregation orders, Judge Paul Egly of the Superior Court mandated that pupil reassignments include grades 1 through 9 in the fall of 1980 and be extended into grades 10 through 12 in later years. The court's 1980 desegregation plan divided the school district into 11 community areas and permitted mandatory pupil busing within but not between each area. Confronted with the problems posed by the size and geographic spread of the Los Angeles school system, the court concluded that a number of schools with high minority enrollments would remain "racially isolated" and not be involved in student transfer programs. To compensate for that racial isolation the court ordered the implementation of a number of special educational programs within the racially isolated schools including a reduction in class size, bilingual instruction, as well as additional staff and curriculum development.[5]

B. Faculty Integration

The earliest impact of desegregation on personnel practices in the Los Angeles system, however, involved faculty and not student integration. In 1973, the Office for Civil Rights (H.E.W.) concluded that there was discriminatory assignment of faculty and staff that produced "racially identifiable" schools within the Los Angeles school system.[6] The Office for Civil Rights (O.C.R.) argued that such discriminatory faculty assignments were in violation of both Title VI of the Civil Rights Act of 1964 and H.E.W. regulations. The O.C.R. threatened that the district would forfeit financial assistance provided under the Emergency School Aid Act unless that assignment policy was corrected.

In 1976, a faculty reassignment plan was devised (and accepted by O.C.R.) mandating that as of the fall of 1977, each school in the Los Angeles district would have a minority teaching staff that was not less

than 10% below or above the district-wide percentage of minority faculty.[7] A substantial number of teachers had to be reassigned to meet that goal.

The United Teachers of Los Angeles (UTLA) participated in discussions with the school administration regarding the faculty reassignment policies that were a part of the district's plan. At that time (1976) the UTLA had no formal collective bargaining rights. Rather, the union, as it had for the previous 15 years, participated informally both in hearings before the school board and discussions with district administrative personnel. Faculty reassignments which occurred in both 1976 and 1977 as part of the O.C.R. plan preceeded the first collective bargaining agreement which was signed by the district and the UTLA in 1978.

One part of the faculty reassignmemnt plan outlined procedures that encouraged voluntary teacher transfers and another part defined mandatory reassignment procedures. In the first year of the plans implementation voluntary transfers were encouraged with the provision that after 3 years of service a teacher that had voluntarily transferred to one of a designated group of schools could return to the school where he or she was previously assigned. The UTLA was in agrement with this voluntary component of the plan.[8]

With respect to the mandatory part of the plan, there was no similar agrement between the UTLA and the school board. In 1976, the district utilized a lottery system to allocate 405 out of 1250 faculty transfers.[9] The UTLA was adamently opposed to the use of a lottery system to allocate mandatory transfers and attempted (unsuccessfully) to pass a bill in the state legislature that would have forbid the use of such a lottery. A lottery system was used again in 1977 to allocate 309 out of 1324 teacher transfers.[10]

The arrival of formalized collective bargaining in 1978 brought agreement over a modified seniority plan that replaced the lottery component of the faculty racial balance plan. The school board as well as the teachers' union had never been satisfied with the use of a lottery system. School principals, in particular, were upset by the fact that the lottery occasionally forced the transfer of teachers who they viewed to be crucial to the operation of their school.

The mandatory component of the transfer plan adopted in 1978 allocates teacher transfers on the basis of seniority with a number of exemptions. The following personnel are exempt from any obligation to participate in reassignments: teachers with less than 5 years service at a school, teachers over the age of 60, and teachers who specialize in bilingual instruction.[11] In addition, principals have the right to retain teachers who they deem essential and teachers have the right to make appeals to a "hardship" board whose decisions can be adjudicated by third-party arbitration. The transfer plan adopted in 1978 also amended the previous voluntary reassignment policy by creating return rights after two years of reassigned service.

After the new plan was adopted the number of mandatory teacher transfers dropped sharply from 309 in 1977-78 to 7 in 1978-79.[12] That drop was due as much to the district's use of the reassignment of new hires and returnees from leaves to provide faculty racial balance as it was due to the success of the voluntary transfer program.

Another teacher transfer mechanism was created to staff schools in core urban areas, a perennial problem in the Los Angeles system. Those schools had a higher than average faculty turnover rate as, upon accumulating seniority in core schools, teachers often transferred to

schools in more affluent neighborhoods. That staffing problem was exacerbated by the faculty integration plan which initiated the transfer of a substantial number of black faculty out of the core urban schools.

In 1978, the district's administrative staff proposed to the UTLA the creation of an incentive scheme that would pay a salary differential to teachers in core urban schools, and thereby encourage voluntary transfers to those schools. The union was initally opposed to the idea. Pay differentials went against the tradition of salary standardization which characterized union pay demands. Instead, the union preferred that supplemental resources be utilized to lower class sizes and provide special educational programs in problem schools.

Judge Egly heard about the school district's proposal and concluded that an incentive pay scheme would be one way to improve the quality of education in the urban core schools. The Judge encouraged the school administration, the teachers' union and community groups to design such a scheme. After extensive debate, the UTLA and the school administration returned to the court with an agreed upon "Urban Classroom Teachers Program" (UCTP) that included an 11% salary premium to teachers within designated schools. The court agreed to fund the 11% salary premium out of a desegregation budget provided to the court by the California State Legislature.

By the summer of 1979, the UTLA (following its own petition) had been granted "intervenor" status in the desegregation case. That status facilitated the initiation of a process through which the union participated in informal court-directed hearings whenever the desegregation case directly involved personnel issues. A significant part of the Los Angeles desegregation plan was designed in this manner with the court

monitoring and encouraging the participation of affected parties. The counsultative planning sessions were multi-partite involving the court, the school board and administration, the UTLA, the plaintiffs in the original desegregation suit, and other citizen groups (such as BUS STOP, a group opposed to mandatory busing).

The Urban Classroom Teachers Program reflects the competing demands that arose in the multi-partite bargaining that surrounded the program's development. In exchange for an 11% salary premium, teachers in the program are required to perform additional duties that amount to 2-3 hours of service per week including such activities as counseling students after regular school hours.[13] Teachers also engage in five days of staff development (with additional compensation) as part of the program. The program is described in the court's desegregation orders and is outlined in the unions collective bargaining agreements. As stipulated in the collective bargaining agreement, the UTLA accepts the program only as long as it is funded by the court.

The UCTP did initiate a number of teacher transfers. Transfers in the program made up 71% of the 2396 transfers which took place in the 1979-80 school year. With the success of the UCTP, in the last few years the district has been able to completely avoid mandatory teacher transfers.[14]

The main advantage of the UCTP from the viewpoint of the school administration is that it helps faculty recruitment in the core urban schools. In addition, the administration sees the UCTP as a way to clarify and strengthen teacher work requirements within those schools.[15] Principals are strongly in favor of the provisions within UCTP that outline specific additional duties required of teachers.

The UTLA was enticed by the court's provision of additional salary funding. From the union's viewpoint, the other advantage of the program is that it reduced the demand for the kind of mandatory transfers that preceeded the UCTP.[16] The inclusion of the UCTP in the collective bargaining agreement also gives teachers recourse to the grievance procedure outlined in that agreement as a mechanism by which disputes over the implementation of the UCTP can be resolved.

The plaintiffs in the desegregation case are not pleased with the UCTP. The plaintiffs see the salary differential provided by the program as a demeaning form of "combat pay".[17] Furthermore, the plaintiffs feel that there is no mechanism to monitor the "quality" of teachers who qualify for the program. The plaintiffs have requested community participation in both the selection of teachers and the operation of the program.

The UTLA, in turn, opposes the participation of either parents or community representatives in teacher selection processes. The union also adamently resists any form of community involvement in the evaluation of teacher performance. These views came to a head in the summer of 1980 when Judge Egly conducted hearings concerning the educational program in racially isolated schools. In the fall of 1980, the UCTP was modifed to incoporate some of the plaintiffs suggestions. Judge Egly mandated that representatives from school-community advisory councils participate along with principals, teachers and union representatives in interviews with applicants to the UCTP.[18]

The clash that occurred between representatives of the plaintiffs and the UTLA over the Urban Classroom Teachers Program is an example of the divergence of viewpoints that arose between these two groups throughout the

desegregation process. From the start, the plaintiffs opposed granting intervenor status to the UTLA. In briefs to the court, the plaintiffs expressed their desire that desegregation not overturn tenure rights provided teachers by state law.[19] But, the plaintiffs pointedly omitted any desire to grant special status to rights provided teachers through their collective bargaining agreement.

The plaintiffs have promoted community participation as an important part of their desired remedy for school segregation. Their efforts to install community participation in teacher hiring and evaluation brought to the desegregation case some of the controversies that have surrounded school decentralization and community control in other school systems throughout the country.[20]

C. Student Integration

The Urban Classroom Teachers Program was utilized to stimulate voluntary teacher transfers into the urban core schools. Yet, the student integration program which started in September 1978 also required a substantial number of teacher transfers. The school administration established as a goal that when students moved, the teachers of those students would move as well. To facilitate those teacher transfers the UTLA and the administration renegotiated a reassignment policy that has since been included in their collective bargaining agreement.[21]

The student integration transfer policy follows a format in which teachers can bid for transfers based on their district-wide seniority. A number of exceptions to seniority bidding are included in the policy. Transfers are not allowed when they jeopardize faculty racial balance guidelines. Transfer exemptions are also granted to bilingual teachers and teachers over the age of 60. As with the faculty integration program, an

appeals board with binding arbitration considers hardship cases. But, in contrast to the faculty integration program, teachers who voluntarily transfer as part of student integration do not acquire any special return rights.

On a number of occasions the court's student integration orders brought to light personnel problems within the district. As with problems that arose out of other parts of the desegregation case, Judge Egly encouraged the school administration and the teachers' union to derive suggestions and resolve differences regarding these personnel issues. An example of this process is provided in the development of bilingual educational instruction. In its original desegregation opinion the court expressed its concern that adequate bilingual instruction be provided in the Los Angeles schools. The court concluded that, "the primary barrier to meeting the bilingual instruction requirements is the recruitment of bilingual teaching personnel".[22] However, rather than impose its own remedy the court encouraged the UTLA and the school board to suggest a remedy for the recruitment problem. Judge Egly issued the following order:

> "The respondent board shall, considering but not limiting itself to the remedies suggested by petitioners, formulate and adopt further remedies to enhance and accelerate the process of identification, training, remuneration and assignment of bilingual instruction personnel and it shall meet and confer and negotiate upon such remedies, as appropriate under the collective bargaining agreement, with intervenor United Teachers of Los Angeles (UTLA). Failing agreement, the court reserves jurisdiction to make such other and further orders as are necessary to alleviate the described harms to NES/LES students within the District".[23]

After a month of negotiations the UTLA and the school board filed with the court a "Joint Status Report".[24] The report outlined both points of agreement and disagreement between the UTLA and the school board.

Agreement was reached concerning the creation of an 11% salary premium to be awarded teachers of bilingual education. Earlier, the UTLA had opposed this sort of salary differential as it had opposed other salary differential schemes. The UTLA came to accept the differential in the face of the school district's and the court's support for such a program as an aide to recruitment and the court's agreement (as in the UCTP) to fund the salary premium out of the state desegregation budget.

In the joint report, the UTLA and the school board stated their disagreement over issues such as the schools to be included in the bilingual salary program (the UTLA was in favor of wider coverage of the program) and the eligibility requirements for the salary differential (the UTLA opposed the awarding of the differential to bilingual instructors who lacked a regular teaching credential). Less important than the particular points of agreement or disagreement was the process the parties were going through. That process encouraged the parties most directly affected by problems and most aware of potential solutions to those problems to suggest remedies. Furthermore, a mechanism was created through which points of agreement and recommendations were communicated to the court. Throughout, the court retained the authority and ability to insure that its ultimate objectives were satisifed.

One of the techniques utilized by the UTLA and the school board to facilitate accommodation to the desegregation plan was to include descriptions of various programs in their collective bargaining agreement. The Urban Classroom Teachers Program and the bilingual pay incentive program are both described in the union's contract. In addition, Judge Egly's orders which set a class size maximum of 27 students per teacher in racially isolated schools was included explicitly in the collective

bargaining agreement.[25] From the viewpoint of both the union and the school board, one of the advantages of this approach is that it allows the use of the contract's grievance procedure as a mechanism by which disputes that arise over those programs can be resolved in an orderly manner.

It would be a mistake to conclude that conflict was competeley removed from the interactions between the court, the school board, the union and other participants in the Los Angeles desegregation process. As mentioned earlier, the teachers' union and the plaintiffs were frequently at odds. In addition, the UTLA sometimes (and particularly in the early stages of the student integration program) challenged the federal court's right to issue desegregation orders that affected teachers' work conditions and personnel policies.[26]

Nor did the consultative process always work smoothly. In the spring of 1980 the district and the UTLA, under severe time constraints, struggled to arrive at personnel policies that accomodated court orders to operate year round schools. And in another instance, the UTLA was only belatedly included in negotiations concerning the district's minority hiring policies. Since the latter espiode is of interest for a number of reasons, it warrants more complete analysis.

D. Minority Faculty Hiring in Los Angeles

The desegregation process in Los Angeles has not included any court orders to increase minority faculty hiring. As we will see this is in sharp contrast to the Boston desegregation case where court orders to increase minority faculty hiring are a continuing source of controversy. In Los Angeles, the faculty integration plan initiated in response to a review by the Office for Civil Rights concerned the racial distribution of faculty across schools within the district, but not the overall representation of minorities in the district's teaching staff.

Federal courts in some cases have utilized a comparison of the racial composition of the faculty with that of the student body as one measure of the adequacy of minority staffing. By that measure, the Los Angeles system includes substantial black representation. In 1976, the first year of the faculty integration plan in Los Angeles, blacks comprised 16% of the full-time teaching staff and 24% of the total student body.[27] By 1980, while the percentage of black students remained at 24%, black teachers made up 18% of the total full-time faculty.

With respect to the representation of hispanics, the situation is far different. In 1976, hispanics were 6% of full-time teachers and 32% of the student body. By 1980, with the continuing immigration of hispanics to the Los Angeles area, hispanics rose to 42% of the total student body. And, although a number of hispanic teachers have been hired (many specializing in bilingual instruction), the associated rise in the share of hispanic teachers to 8% in 1980 is small compared to the shift in the racial composition of the student body.

A suit had been initiated that charged the Los Angeles School Board with discriminatory employment practices towards hispanic applicants for teaching positions. That suit culminated in a consent agreement reached in April 1979.[28] The agreement included a pledge by the school board to perform more extensive validation of its hiring tests; pursue affirmative action recruitment; and follow a guideline that the hiring of hispanics be "generally reflective of the percentage that hispanics occupy in the qualified, pre-selection applicant pool". In view of the shortage of bilingual instructors, the school administration foresees no difficulty in meeting those goals.

At first, the UTLA was excluded from the deliberations that surrounded the consent agreement. The union successfully challenged an early agreement on grounds that it interfered with the union's collective bargaining agreement. Subsequently, the UTLA was included in the deliberations that led to the final consent agreement and was formally included as a party to the final consent agreement.

The course of school desegregation in Los Angeles was altered abruptly in the spring of 1981 when the California Supreme Court let stand Proposition 1, an initiative approved by California voters in 1979. That initiative prohibits court-ordered busing unless it is initiated to correct intentional segregation. The Court of Appeals for the Second District had ruled earlier that residential patterns rather than deliberate discrimination caused segregation in the Los Angeles school district. The school board quickly responded to these court decisions by putting an end to mandatory busing. In addition, Judge Egly recently withdrew from the desegregation case.

It is unclear, however, exactly how the court decisions and the end of mandatory busing will affect labor relations in Los Angeles. Many of the critical labor relations issues concern teacher transfers. Those transfers are primarily a result of either faculty integration programs ordered by the Office for Civil Rights or the education programs Judge Egly ordered for the district's urban core schools. These programs and the teacher transfer issues may well be largely unaffected by the end of mandatory busing.

The teachers' union has been involved in some of the recent decisions regarding the mandatory busing program. After the California Supreme Court's decision regarding Proposition 1, the Los Angeles school board

faced a choice either to immediately end the mandatory busing program or end busing at the start of the next school year. The UTLA went to court in an effort to stop the school board's decision to immediately end busing. The teachers' union argued, unsuccessfully, that permitting students to transfer before the end of the term would disrupt classes and cause students irreparable harm.

2) Dade County, Florida

A. History of the Desegregation Case

Court-ordered desegregation began in the Dade County schools during the 1969-70 school year.[30] The Federal Department of Health, Education and Welfare announced, in the Spring of 1969, that the dual structure which prevailed in Dade schools was in violation of the requirements of the 1964 Civil Rights Act. The Dade School Board proceeded to initiate plans to remove the dual structure and desegregate the schools as of the following fall term. In August 1969, the School Board took the unusual step of requesting the jurisdiction of the Federal court to intercede against an action filed in the state court by a citizen who sought to enjoin the school board from implementing the desegregation plan it had developed. The Federal District Court eventually did find the school board's desegregation plan inadequate, and only after a series of hearings approved a revised final desegregation plan.

During the development of its final desegregation orders, the Federal court relied heavily on advice provided by the Florida School Desegregation Center. The Desegregation Center itself sought and received the advice of interested parties.As an interested party the Classroom Teachers Association (CTA), which represented teachers in the Dade schools, provided recommendations to the Federal court, the school board and the

Desegregation Center concerning how desegregation should proceed. In this way, the CTA came to play an important role in the planning process that preceded the desegregation of the Dade County schools.

The executive board of the CTA, in July 1969, approved a series of "Recommendations for Integration".[31] Those recommendations included suggestions to: increase the number of black teachers and administrators in the school system; provide a travel reimbursement to compensate faculty reassigned as part of integration programs; accelerate the incorporation of Negro history and culture in the classroom; and devote additional resources to create "ideal inner-city schools". The CTA's attitude toward school desegregation was stated in an editorial that appeared in the association's newspaper that read, "The overwhelming majority of teachers expect it, accept it and believe in it. All that teachers ask is that it be done in a fair and equitable manner".[32] To understand the origins of the CTA's policy toward desegregation it is necessary to trace the history of both the teachers' association and teachers' efforts to unionize in Dade County.

The Classroom Teachers Association had been the dominant representative of teachers in the Dade schools since the 1930s.[33] Until 1962, in accordance with the segregated dual structure that characterized the Dade school system there existed two segregated teacher organizations, the Dade County Classroom Teachers Association (which represented white teachers) and the Dade County Teachers Association (which represented black teachers). In 1962, those two organizations merged to form the CTA. This merger created the first integrated teacher organization in existence south of the Mason Dixon line. Shortly after the merger, in 1963, the membership of the CTA voted to support the "complete integration of Dade County Schools".

The merger of the black and white teachers organizations contributed to the CTA's early support for desegregation in a number of ways. For one thing, the merger highlights the fact that because of the existence of a dual school system, by the early 1960s the Dade schools contained a significant number of black teachers. The very existence of a sizable number of black teachers within the school system encouraged accommodative policies toward desegregation. Furthermore, the merger which created the CTA produced a union leadership that was committed to integration. The first president of the newly created CTA was Pat Tornillo who had been elected in 1962 on a platform that supported both the merger of the segregated black and white teacher organizations and school integration. After his election in 1962, Tornillo continued (up through the present) as the dominant leader of organized teachers in Dade.

In the aftermath of Florida's passage of a law granting collective bargaining rights to public employees, in 1974, the United Teachers of Dade (UTD) arose out of the merger of the CTA and the Dade Federation of Teachers. With Pat Tornillo as its leader, the UTD then signed formal collective bargaining agreements with the Dade County School Board.

B. Faculty Integration

In Dade County, as was the case in Los Angeles, the earliest phase of desegregation involved efforts to provide racial balance in the distribution of faculty across schools in the district. Various faculty integration plans were being debated in the fall of 1969. The CTA argued in support of a faculty reassignment plan that would have equalized the percentage of black teachers in each school with the percentage of black teachers system-wide.[34] The CTA requested that any mandatory reassignments necessary to provide that equalization be based on seniority.

The Federal Court ordered that the Dade schools undertake faculty integration in February 1970.[35] Although the CTA preferred that faculty integration be posponed until the start of the next school year, the teachers were pleased with the fact that the court-ordered plan followed many of the CTA's recommendations. Racial balance guidelines were established to bring the racial composition of school faculties in line with the racial composition of the overall faculty in the district. The court also ordered that any mandatory teacher transfers follow seniority, although the court denied the CTA's request for travel reimbursement for reassigned teachers.

The spirit of accommodation that characterized the CTA's attitude toward desegregation was illustrated in the request by Janet Dean (then President of the CTA) to be reassigned to teach in one of Dade's inner-city schools and thereby give up the perogatives of union office. Dade schools were then closed for four days in February 1970 to facilitate the transfer of 2,000 teachers who were reassigned to satisfy the faculty racial balance guidelines.

Faculty racial balance guidelines now appear as part of the collective bargaining agreement signed by the UTD and the Dade School Board.[36] That agreement provides that any mandatory teacher transfers in the district follow system-wide seniority except when those transfers jeopardize the faculty racial balance guidelines.[37] The collective bargaining agreement also provides an appeals process which includes UTD representation for teachers who want to be exempted from any transfer on a hardship basis.

C. Student Integration

Student integration occurred six months after faculty integration in accordance with Federal Court orders. Dade County does not have a policy

that teachers move with students reassigned as part of student integration. When grade levels within a school remain intact and pupils move, teachers are not reassigned. As a result, it was faculty racial balance that initiated the largest number of teacher transfers and the most substantive changes in district personnel policy.

The total number of involuntary teacher transfers in recent years in the Dade schools has not been large.[38] The district estimates that there have been less than 10 per year. Changes in enrollment patterns in the district have created the possibility of a more substantial number of teacher transfers in the 1981-82 school term. The UTD and district administrators have recently began discussing methods which could encourage a greater number of voluntary teacher transfers.

D. Minority Faculty Hiring

The Dade School Board has not faced any court orders concerning the overall representation of minorities among the district's workforce. Over the last 12 years, the percentage of full-time black teachers in the district has steadily risen. In 1968, blacks made up 18.6% of full-time teachers in the system.[39] As of 1980, 29.6% of the students and 26.8% of the full-time teachers were black. A much larger disparity exists between the percentage of students and teachers that are hispanic. Spurred by the Cuban influx into the Miami area, as of 1980, 37.6% of the students were of hispanic origin. Meanwhile, hispanic representation among full-time teachers has risen from 3.6% in 1968 to 13.5% in 1980.

Recently hispanic recruitment has been expanded as part of the school district's effort to hire more bilingual teachers. The recruitment of hispanic teachers is encouraged by a clause within the UTD's collective bargaining agreement which facilitates the employment of teacher aides who

have acquired a teaching credential. The 1977-80 contract provides that former aides in the system who have acquired a teaching credential are given preferential treatment in the district's hiring process.[40] Minority hiring is encouraged through this channel because a large percentage of the district's teacher aides are either black or hispanic.

The UTD, and earlier the CTA, has supported the hiring of more minority staff in the Dade schools. In 1969, as part of its recommendations to the Federal Court the CTA went so far as to request that, "the recruitment and employment of new teachers more closely approximate the ratio of black to white students in the school system".[41]

The Dade desegregation case has not had the sort of continuing court involvement that appears in Los Angeles and Boston. In Dade, the Federal Court has continued to monitor conformance with its student desegregation and faculty racial balance guidelines. However, Dade has not had the kind of court involvement in educational program design or faculty hiring that appears in Los Angeles and Boston.

3) Boston

A. History of the Desegregation Case

On June 21, 1974, Judge W. Arthur Garrity, Jr. of the First Circuit Court of Appeals found that the Boston School Committee had unconstitutionally fostered and maintained a segregated public school system.[42] That court decision arose out of a suit filed by the NAACP on behalf of black school children and followed investigations by the Federal Department of Health, Education and Welfare. Judge Garrity concluded that through an array of policies the Boston School Committee had fostered segregation and had actively worked to avoid enforcement of the Racial Imbalance Act of the State of Massachusetts. Through feeder patterns, and enrollment and

transfer policies two subsystems had been created in the Bostor schools. One subsystem was 71% non-white and the other 76% white. The very existence of such subsystems made voluntary desegregation efforts difficult. In addition, the court concluded that the use and location of school facilities were designed to promote segregation.

Faced with the complicated task of implementing desegregation the court found it necessary to order a remedial desegregation plan that involved three phases. In the face of the short period of time that remained between the court's initial June ruling and the start of the upcoming school year in September, the court ordered that the first phase of desegregation (to take effect in September 1974) involve the implementation of an existing state "redistricting" plan originally designed to bring Boston schools in compliance with the state's Racial Imbalance Act. Judge Garrity then ordered the Boston School Committee to develop a full plan to desegregate the Boston schools. The School Committee failed to submit to the court a comprehensive desegregation plan and thereby thrust the design of desegregation back into the hands of the Federal Court. Judge Garrity, with the guidance of an appointed panel of experts, designed an extensive desegregation plan to be implemented starting in the fall of 1975. In the spring of 1976 the desegregation plan was modified further by the court in what came to be known as the third phase of the desegregation effort.

The complete desegregation plan included new community school districts, citywide magnet schools, and the busing of school children. In addition, various councils of parents, teachers, and school officials were established by the court to monitor compliance with the court orders and facilitate community involvement in the desegregation process. Although

Judge Garrity has suggested that he would like to completely return administrative responsibility to the Boston School Committee, as of the summer of 1981, the court is still continuously involved in insuring compliance with its orders.

B. Student Integration

The Boston Teachers Union (BTU) was not pleased with the desegregation effort. Early on the BTU had expressed its opposition to the state redistricting plan which had been designed to bring Boston schools in conformance with the 1965 State Racial Imbalance Act. The union, like many teachers in the school system, was unsympathetic to charges that the school system was blatantly discriminatory and required major restructuring to set it right. In addition, the BTU argued that reorganization of the school system would be "too educationally disruptive."[43] Instead, the union favored an expanded program of magnet schools and voluntary transfers.

The BTU was particularly upset about the large number of teacher transfers and reassignments that were produced by desegregation. These transfers and reassignments followed the creation of new schools, the closing of a number of schools, and large scale reorganizations of within-school programs which were all part of the desegregation plan. The Boston Teachers Union estimates that from one to two-thousand teachers were transferred as part of desegregation. To facilitate those transfers, the court felt it necessary to overrule existing language in the collective bargaining agreement between the Boston School Committee and the teachers' union which regulated transfer rights. The court argued that both the speed and the magnitude of the transfers precluded the use of the elaborate bidding and rating transfer procedures outlined in the collective bargaining agreement.

Once court-ordered desegregation had begun the BTU repeatedly petitioned Judge Garrity for relief from extensive teacher transfers and reassignments.[44] The teachers' union protested that mandatory transfers violated the placement rights teachers had accumulated through years of service. The union also petitioned for a delay in the implementation of the additional phases of Judge Garrity's desegregation plan.

The union's complaint against the desegregation plan involved procedural as well as substantative issues. The BTU adamantly protested the process by which the court overruled parts of the existing collective bargaining agreement between the union and the School Committee. The union had another procedural complaint as well, namely, the union's limited involvement in the design of the desegregation plan. Having grown accustomed to negotiating with the School Committee over policy changes that affected personnel, the union was upset by the court's control of decision-making authority.

C. Faculty Integration

The court's desegregation order found that the concentration of black faculty in schools attended predominantly by black children was one aspect of the segregated dual school system in Boston. The court concluded that "segregative assignment and transfer policies" had both produced this concentration of black teachers and had allocated the least experienced teachers to the schools attended by most black children.[45]

To put an end to these faculty assignment patterns the court enjoined the school department from granting transfers of white teachers from schools with majority white enrollments. The court established as a goal that the proportion of black teachers assigned to each school reflect approximately the proportion of black teachers systemwide at that grade

level. At a minimum, the court required that no school "have a faculty whose percent of black members is less than half or more than twice the percent of black teachers in the applicable elementary, middle or high school level..."[46]

Although the faculty racial balance goal in Boston was nearly identical to that established in Los Angeles and Dade County, faculty integration did not play as significant a role in the Boston system as it did in the other two school systems. For one thing, there were not as many black teachers in the Boston system at the time of the initial desegregation order. Consequently, reassignment of those black teachers to satisfy racial balance did not create as large a problem regarding teacher transfer rights. More important than the reassignment of black faculty to achieve racial balance were court orders to increase the hiring of black faculty and the reassignment of faculty that followed as part of student integration.

Interpretation of the court's faculty racial balance orders did create some controversy in the Boston system. In 1978, the BTU filed a grievance against the School Committee for their refusal to transfer permanent black elementary teachers when to do so would reduce the percentage of black teachers at a school below 20% but not strictly violate the court's racial balance guidelines.[47] The arbitrator that heard the grievance petitioned Judge Garrity for a clarifying ruling. Judge Garrity then ruled in favor of the BTU and ordered that the black teachers be transfered. The Judge then sent other aspects of the grievance back for consideration by the arbitrator.

This incident is of particular interest for two reasons. Firstly, it illustrates the precarious position an arbitrator is placed in when court

orders regulate traditional collective bargaining concerns such as teacher transfer rights. The arbitrator in this case was at a loss as to how to rule on a grievance that concerned a court order and took the expeditious step of directly appealing to the court for a clarifying ruling.

It should be noted that the Boston School Committee and the teachers' union did not include any language in their collective bargaining agreement concerning the court's desegregation orders. As was the case in the dispute discussed above, often the parties ultimately were dependent upon the court for a final ruling. Yet, the school committee and the union never formally clarified the overlap between court orders and their collective bargaining agreement.

Secondly, the incident serves as an example of the change that occurred in school administration policy as the desegregation case evolved. This grievance arose because the school administration chose to insure black representation in particular schools above that strictly required by the court's racial balance guidelines. This is in sharp contrast to the administration's earlier opposition to the very existence of any faculty racial balance guidelines. The sources of that change in policy include personnel changes on the school committee and in the Superintendent's office. Clarification of those sources is, however, beyond the scope of this study. For my purposes it is important to note that this change in school administration policy influenced the course of labor-management relations. Another example of the way in which school administration policy evolved over the course of the desegregation case is discussed below in the review of minority faculty hiring.

D. Minority Faculty Hiring

By the fall of 1977, the bulk of the restructuring of school programs initiated by Judge Garrity's orders had been completed. From that point

on, the aspect of the desegregation process which precipitated the most heated response from the BTU was Judge Garrity's effort to provide greater racial balance in the teaching staff of the Boston school system. To induce change in the racial composition of the faculty, Judge Garrity issued a number of "hiring orders." Judge Garrity's hiring orders initially may have appeared to be only an incidental part of his complete desegregation orders. Yet, those orders have had important consequences for the teachers' union and the school system as a whole. A review of the history of those hiring orders, to which I now turn, will provide a background for the analysis of the union's response to those orders.

Judge Garrity's initial hiring order of July 31, 1974 included a number of components. The order set out as a goal that black teachers comprise 20% of all teachers in the Boston public school system.[48] The 20% figure was equal to the fraction of the total population of Boston that was black according to the 1970 census. In the 1973-74 school year black teachers made up 7.1% of the total. To attain the 20% figure, Judge Garrity ordered that the school system hire one black teacher for each new white teacher hired, to the extent that qualified black candidates were available. In addition, Judge Garrity ordered the immediate hiring of 280 new permanent black teachers. Implementation of that part of the order alone increased the percentage of black teachers in the system to 10.7%.

The Judge also outlined procedures the school department should follow in order to recruit additional black faculty (such as appointing three black recruiters). To assist in monitoring compliance with its orders, the court required the preparation of long range recruitment plans and periodic reports describing recruitment efforts and hiring figures.

The school department complied with Judge Garrity's order to hire 280 new permanent black teachers for the 1974-75 school year, but then proceeded to dramatically alter its hiring policies. From September 1975 on, the Boston school department continued to hire a number of new teachers, but only hired new teachers on a provisional basis (one year contracts) and discontinued the hiring of teachers on a permanent contractual basis.[49]

The motives behind this switch in hiring policy are not clear. A substantial degree of uncertainty surrounded enrollment levels and the future course of court mandates. In the face of that uncertainty, the school department may have looked to the employment of provisional teachers as a device to deal with uncertain and changing manning requirements. In addition, school officials may have turned to provisional teachers as a cost-cutting device. Provisional teachers enter at lower salary levels and receive fewer fringe benefits than permanent hires.[50] In this way, the hiring of provisional teachers may reflect the "price responsiveness" of school officials who look to provisional teachers as a cheaper source of labor than permanent teachers whose price (wage) had been raised by gains won in collective bargaining.[51] But, the school department rehired many of the provisional teachers year after year and lost some of these economic benefits when an arbitrator ruled that in conformance with state law a provisional teacher (like a permanent teacher) acquires tenure and many of its accompanying benefits after working in the system for three consecutive years.

An alternative motive for the school department's policy may have been that it provided a way in which the school department could avoid the hiring of blacks. In his January 28, 1975 hiring order Judge Garrity

included a provision that allowed the school department to rehire any provisional teacher employed the year before and not be bound in such rehiring by the one black for each white requirement. The Judge later lamented the consequences of the exception and subsequently amended his hiring order as the school department continually rehired white provisional teachers. In the interim, that rehiring policy and the difficulties the school department allegedly encountered in recruiting qualified blacks led to slow progress in meeting the court's goal of a 20% black teacher workforce. As of the 1975-76 school year the percentage of black teachers stood at 11.4% and rose to 15.6% by 1978-79.[52]

Table 1 reports the racial composition and the date of hire of the provisional teachers employed in the 1978-79 school year. These figures illustrate that it was not until 1977-78 that the school department actually attained the spirit of Judge Garrity's one for one hiring rule. It is also important to note the sizeable number of provisional teachers that were hired from 1975 on. Remember, this hiring occurred when the school department was no longer hiring new permanent teachers and the number of permanent teachers in the school system steadily declined through attrition.

Whatever the motives for the school department's shift to the hiring of provisional rather than permanent teachers, the exclusive hiring of new teachers on a provisional basis could not have helped the school department's efforts to recruit black teachers. Much of this recruitment activity involved trying to encourage black teachers to shift into the Boston system from other school systems in the Boston metropolitan area or from school systems in more distant locations. The absence of new permanent teacher contracts must have made this already difficult task more difficult.

TABLE I

BREAKDOWN OF WHITE, BLACK AND OTHER MINORITY PROVISIONAL TEACHERS EMPLOYED IN 1978-79

Year First Hired	Black	White	Other Minority	Total
1978-79	207	61	66	334
1977-78	75	72	31	178
1976-77	58	138	49	245
1975-76*	81	185	36	302
Totals	421	456	182	1059

From "Report of the Numbers of White, Black, and Other Minority Permanent and Acting Administrators," School Committee of Boston, March 14, 1979, Table ii.

*Provisional teachers with more than three years of continuous service acquire permanent status and tenure.

Frustrated by the school system's slow progress in increasing the number of black teachers, Judge Garrity modified his hiring orders further on July 5, 1978.[53] These new orders mandated that except for the rehiring of third year provisional teachers, all hiring and rehiring of teachers be done on a basis of one black for one white until in each school year there is a 1 1/2% increase in the percentage of black teachers in the school system. The court thereby blocked the school department's policy of continually rehiring a disproportionate number of white provisional teachers.

With system-wide black emloyment at 15.5% of the total employment in the 1978-79 school year, if the school system only met the 1 1/2% per year minimum, it would have taken three years until the court's goal of 20% black employment was attained. In its July 1978 orders the court rejected motions entered by the plaintiffs in the desegregation case to either grant existing black provisional teachers "super-seniority" in future hiring decisions or mandate the immediate awarding of tenure to black provisional teachers who had completed at least one year's teaching experience in the Boston system.[54]

Events that transpired during the 1980-81 school year brought to the court the dilemma of choosing between the continuation of affirmative action in minority hiring and the preservation of the seniority rights of existing faculty. That choice was created by pressures placed on the Boston school administration to reduce the total number of teachers in the system. A primary source of that pressure was the massive declines in enrollment that have occurred in the Boston System. In 1965 total enrollment in the school system stood at 94,035. Enrollment climbed to 97,344 in 1970 and then declined to 84,988 in 1975 and by January 1981

stood at 64,481.[55] If class size was kept constant at the level of 25 student per class and teacher workloads remained constant, the drop in enrollment of 32,863 which occurred between 1970 and 1981 would have facilitated a reduction of 1315 teachers (or 25% of the total number of teachers in 1973-74). In fact, the total number of teachers in the system has remained relatively constant, going from 5214 in 1973-74 to 5150 as of March 1981.[56] However, the passage of Proposition 2 in a statewide general election created an outlook of substantial reductions in Boston's municipal revenue sources.

Political pressure in support of reductions in the number of school faculty came to the fore in the spring of 1981 when Mayor White refused to increase the school department's budget beyond $210 million. The school department had been expecting a much larger budget and since September 1980, had been spending money in accordance with a projected budget of $240 million. The threat of a midterm closing of the Boston school system was averted only after the State Superior Court ordered Mayor White to sufficiently fund the school department so as to insure operation of the schools for a full term.

The Boston School Committee recently voted to layoff 960 teachers at the start of the upcoming fall term.[57] The question that came to the court is how to allocate those reductions in the number of teachers. If teacher workforce reductions occur according to seniority then the number (and percentage) of black teachers in the system will drop significantly as most of the black teachers were hired after 1973, the start of the desegregation case. For example, if the school department were to carry out its layoff of 960 teachers according to strict seniority, then the percentage of black teachers in the system would drop from 19% to 8%.

On June 2, 1981, Judge Garrity ordered that any teacher layoffs be performed in such a way that the systemwide percentage of black teachers remain at the existing level of 19.1%.[58] The Judge also ordered that black teachers receive an absolute preference for recall until a 20% figure is reached and after that point, no fewer than 20% of the teachers subsequently recalled or recruited be black. The School Committee has agreed to follow the court's orders when implementing teacher layoffs.

The Boston Teachers Union has actively participated in the debate that surrounded the court's efforts to increase minority faculty representation. Early on, the BTU unsuccessfully appealed Judge Garrity's 20% hiring order. The union favored a more limited goal.[59] Later, as an interested party the Boston Teachers' Union submitted a response to the plaintiff's motion which preceded Judge Garrity's revised hiring order of July 5, 1978.[60] In that response the union adamantly expressed its opposition to "any order which gives preferential treatment to black provisional teachers."[61] Instead, the union recommended strict adherence to the seniority principle as the guideline for appointments and layoffs.

When reviewing the course of relations in the 1970s between the BTU and the school department it might at first seem surprising to learn that the BTU did not adamantly resist the increased hiring of provisional teachers and the halt in the hiring of new permanent teachers. No union likes the wage and benefit reductions that accompanied the shift from permanent to provisional contracts and one might have expected the BTU to firmly resist the change in the school department's hiring policy. Yet, the BTU appears to have acquiesced rather passively to that new hiring policy.

In fact, it can be argued that the BTU took a number of steps to exaggerate the differences that exist in the status of permanent and provisional teachers. One such step was the union's negotiation of job security agreements (a school department promise not to lay off) covering only permanent teachers in recent contract settlements. The union's "excess" procedure which regulates bumping rights also excludes teachers on provisional status.

Until recently, the BTU and the school administration were unified in their requests for both limited minority hiring goals and the preservation of strict seniority. However, in the spring of 1981, the BTU and the school administration suggested very different methods as to how to allocate teacher layoffs.

Following a vote of the School Committee, the school administration proposed to Judge Garrity that the percentage of black teachers in the system not be allowed to fall below the current figure of 19%.[62] This would require that roughly four white teacherss be laid off for each balck teacher laid off. To accomplish that pattern, layoffs could not follow system-wide seniority.

The BTU has continued to demand that any teacher layoffs that do occur follow the seniority procedures outlined in their contract with the School Committee.[63] In a general membership meeting, the BTU heatedly debated the union's position with respect to layoffs. Although a number of alternatives to strict seniority were discusssed at that meeting, the membership voted to support the policy of the union's executive board that layoffs strictly follow seniority.

What explains the union's preference for the strict preservation of seniority rights? That choice can, in part, be explained by the fact that

the strict preservation of seniority rights serves the interests of the older, white, permanent teachers--the politically powerful component of the BTU's membership.[64] In addition, the BTU, like most other unions, finds it extremely difficult to contemplate the abandonment of the seniority principle which has served as one of the basic tenets of the American collective bargaining system.

The BTU's actions with regard to the status of provisional teachers also can be explained as part of the union's efforts to protect the interests of older permanent teachers. There was an ever-present possibility that the school committee would respond to declining enrollments by laying off teachers. The existence of a separate class of teachers with provisional status provided some assurance to permanent teachers that any layoffs that did occur would not spread into their own ranks.

The layoff threat that loomed for permanent teachers in the Boston system was exacerbated by two factors: a shift in the composition of school programs and the particular form of the layoff procedure outlined in the union's collective bargaining agreement. Bilingual and special education programs had become the growth areas in the Boston system. Furthermore, provisional teachers were heavily concentrated in those expanding programs. For example, as of March 1981, provisional teachers comprised 43% of all bilingual teachers while only 7% of all "regular education" teachers were on provisional status.[65]

The layoff procedure in the union's contract specified that layoffs follow seniority in certification areas and <u>not</u> system-wide seniority.[66] In light of the growth of bilingual and special education programs, strict adherence to layoff by certification area would lead to the disproportion-

ate layoff of permanent teachers certified in regular education instruction and the retention of provisional teachers certified in bilingual or special needs instruction. However, this outcome was prevented by the fact that provisional teachers were excluded from the coverage of the union contract's layoff clause. If layoffs were to involve recognition of certification area, then this sort of exclusion was necessary to protect senior permanent teachers concentrated in shrinking regular education programs.

When responding to a layoff threat by acquiescing in the creation of a "protected" and "unprotected" class of workers, the BTU was following a road previously traveled by a number of other unions. For example, in the 1950s in the West coast longshoring industry, containerization brought the threat of workforce reductions. The longshoremens' union responded by creating a similar two-class system--one class of protected senior workers who received job security and another class of unprotected junior workers who were without job security.[67]

The BTU's preferences for limited minority hiring goals and the preservation of seniority rights has not gone unchallenged within the union. In 1978, after hearing a report concerning the plaintiff's motion which asked for "super" seniority for black teachers and the official union response to that motion, in a general meeting union members voted to establish a special committee to "formulate a positive BTU position on minority hiring to be submitted to" a meeting of the membership.[68] A special committee, created in response to those demands, later formulated a list of proposals which included support for the goal of a 20% or more black teaching staff and encouraged the adoption of measures to increase minority recruitment. The BTU executive board then strongly voted down

those proposals and after intense debate at a subsequent general membership meeting, the proposals were tabled.

BTU policies which exacerbated the differentiation between permanent and provisional teachers also created internal political problems within the union. Provisional teachers, as an increasing fraction of the teacher workforce, struggled to redirect the policies of the BTU. It is important to note that tensions were increased between these teacher groups because of the large minority representation among provisional teachers.[69] Provisional teachers were also, on average, a much younger workforce than the permanent teaching staff. Both the youthfulness and the racial composition of the provisional workforce led them to oppose the BTU's long-standing opposition to desegregation and the union's preference for more modest minority hiring goals. Furthermore, provisional teachers demanded that the BTU more aggressively push their particular interests, such as increased salaries, benefits, and job security for provisional teachers, in contract negotiations with the School Committee.

Many of the complaints against traditional BTU policies expressed by restive provisional and minority teachers had the support of teacher aides, another increasingly important fraction of the BTU's membership. By 1978-79 there were approximately 1500 aides in the school system.[70] And, like provisional teachers, a large fraction of the aides were either black or some other minority. In the 1975-76 school year, 43.4% of all aides were black and 10.6% were other nonwhite minorities.[71]

Dissension within the ranks of the BTU led to the creation of a slate of candidates (the New Unity Coalition) which ran for positions on the union's executive board in elections in the spring of 1978.[72] That slate was comprised heavily of minorities, provisional teachers and aides, and

supported policies that would have promoted the interests of all three of those groups. Although the slate failed to elect anyone to the executive board, its strength in a primary election signalled the presence of significant dissension within the union. Later, the Concerned Black Educators of Boston emerged as a lobbing force in favor of more extensive minority hiring.[73]

One can speculate as to how the union's internal political balance will respond to these new claims. A possible course is for union policies to gradually shift so as to accommodate the desires of the newer members. Alternatively, the union's leadership and policies may continue to be dominated by the traditional membership--the older, predominantly white, permanent teachers. Following this latter scenario, at some point in time an explosive struggle for control of the union will occur between the traditional groups in the union and a coalition of minority and provisional teachers and aides. Possibly, these internal disputes within the BTU will be overwhelmed by the union's emerging fight with Mayor White and the School Committee over the extent of teacher layoffs and school budget cutbacks.

As well as struggling over its internal political alignment, the BTU continually has been faced with the task of directing its relationship with external parties such as the court and the Boston community. As discussed earlier, the BTU has generally been opposed to the thrust of Judge Garrity's desegregation and hiring orders. And yet, as the desegregation process has continued, the BTU has at times found that there are advantages to court involvement in the school system. For example, during fights over the extent of school closings, the BTU frequently found itself on the same side as Judge Garrity in opposition to cutbacks proposed by Mayor White or

the Boston School Committee. Teachers wanted to stop school closings in order to protect their jobs while Judge Garrity acted to protect the desegregation effort. The BTU has also supported steps taken by Judge Garrity which insured the fiscal solvency of the school system. In the spring of 1976, the union supported an order issued by Judge Garrity that forced Mayor White to fund a full school term even though the school committee had accumulated a large deficit.

The BTU's relationship with community groups and parents is marked with the same ambivalence that characterizes the union's relationship with the court. As a public sector union, the BTU is dependent upon parents and the wider community for support of its bargaining demands with the school committee. Without that support, the bargaining power of the BTU would be severely weakened.

Teachers and parents have found a commonality of interests on a number of issues. Teachers and parents have frequently joined together in support of expanded school programs and in opposition to school closings. Yet, as part of the desegregation process, a number of disputes have arisen in which the BTU and parents stood on opposing sides. For instance, to monitor desegregation, the court created various parent and "citizen advisory" groups. A clash occurred in the fall if 1979 when parents entered the classroom as part of their efforts to monitor compliance with the desegregation order. Teachers and the BTU resented the intrusion of parents into the classroom, fearing that it might lead to parental involvement in evaluations of teacher performance. The union petitioned the court to stop the practice. Judge Garrity then upheld the rights of parents to enter the classroom as a legitimate aspect of their monitoring responsibilities. Other union policies which favored permanent teachers

put the union in alliance with some parental groups and in opposition to other parents who supported the claims of minority and provisional teachers. One consequence of the latter is that the union's internal politics became intertwined with the union's "external" relationship with parents and community groups.

IV THE FEDERAL COURT AS REGULATOR

1) Overview

The Federal Court's efforts to influence the outcomes of labor relations as part of school desegregation is a form of regulatory intervention within collective bargaining. The 1970s have witnessed the expansion of this kind of regulatory intervention where either legislative agencies or courts have operated as a third party within labor-management relations. Prominent examples involve equal employment opportunity and occupational safety and health.

Much criticism has surrounded these other instances of regulatory intervention.[74] One criticism frequently made is that the process suffers because the regulator typically ignores both the concerns and talents of the parties whose actions are being regulated. Instead, the parties spend much of their time and energy fighting one another and little attention is paid to the search for solutions to existing problems. A recommendation commonly made to improve such regulation is that more cooperation occur between the parties. It is said that the third party, be it a court or an administrative agency, should consult more extensively with the regulated parties and rely more heavily on the expertise of those parties. But, what can be done to facilitate this sort of cooperation? And, what are some of the factors that impede cooperation? Here, much of the criticism of regulation has had little to offer.

My analysis of the desegregation process in the three school systems reveals the many ways in which court involvement in desegregation involved efforts to redirect labor-management relations. In this way, desegregation provides an example of regulatory intervention in collective bargaining. This section of the research evaluates the success of court-directed regulation of labor-management relations in the three school systems under study. The intent is to provide both a comparison of regulatory performance in the three school systems and an assessment of the factors that influenced the observed variations in regulatory performance. A useful distinction can be drawn between those casual factors that are "environmental" and those that are under the direct control of the parties. With those causal factors in mind, the paper concludes with a discussion of the differences that exist between the court's regulatory intervention in collective bargaining and grievance or interest arbitration, a more traditional form of intervention in collective bargaining.

2) Evaluation of the Quality of Regulatory Intervention

Among the three school systems, Los Angeles clearly involved the greatest amount of cooperative problem-solving activities in the area of labor relations. The Urban Classroom Teachers Program is one example of the kind of effective solutions devised in Los Angeles. That program reduced the number of mandatory teacher transfers while at the same time (in the opinion of the school administration) markedly improved the quality of the teaching staffs in urban core schools. Another outcome of problem solving in the Los Angeles system is the modified seniority system utilized when mandatory teacher transfers are necessary as part of student integration. That seniority system provides a compromise which satisfies the teacher union's desire for procedural rights while at the same time

provides the school administration with an orderly mechanism that preserves a degree of flexibility.

The key to the development of these creative solutions in Los Angeles was the consultative process that brought together the court, the union, the school administration, and community representatives. Through both formal and informal discussions, Judge Egly provided a forum in which the affected parties could meet and discuss their concerns. At the same time, the court has retained final decision-making authority. Consultation has been provided without eroding the court's ability to make judgments that do not completely satisfy one or more of the affected parties.

The existence of a consultative process in Los Angeles has not eliminated conflicts between the affected parties. For example, the plaintiffs to the desegregation suit and the UTLA have often disagreed. The plaintiffs opposed the union's original petition to intervene in the case and the plaintiffs continue to be unhappy with the use of seniority and pay differentials in the UCTP. Nor has there always been agreement between the teacher's union and the school administration. The union prefers strict adherence to seniority, while the administration seeks to create a greater degree of flexibility within teacher transfer procedures. The point is that although disagreements remain, the parties in Los Angeles have been able to effectively utilize their own expertise to design solutions to many of the problems that have arisen in the desegregation process. And further, when the parties do not agree, the consultative process produces mechanisms by which the parties clarify their points of agreement and disagreement, as in the issuance of the "Joint Status Report" concerning bilingual education.

The desegregation process in Dade County also has involved a substantial amount of consultation and accomodation between the court and teachers. This was particularly true in the early stages of the desegregation case in Dade County. During that early phase the teachers' representative (CTA) supported the integration process and participated actively with the Florida Desegregation Center in the design of the desegregation plan. The result of this consultation was a compromise with the CTA agreeing to facilitate the teacher transfers needed to provide faculty racial balance while the school administration agreed to utilize seniority as the allocative device for those transfers. The accomodative spirit initiated in the early phases of desegregation continued during the subsequent discussions carried out by the school administration and the teachers' union as part of their collective bargaining relationship. A later example of that cooperative spirit was inclusion of faculty racial balance guidelines and transfer provisions in the teachers' collective bargaining agreement.

The spirit of compromise that characterizes the response to desegregation by teacher unions in Los Angeles and Dade County is in marked contrast to the experience in Boston. From the start, the teachers' union in Boston adamantly protested the initiation of court-ordered desegregation. And, although Judge Garrity regularly has conducted hearings that brought the various parties together, those hearings rarely have produced problems-solving activities.

One of the most unusual aspects of the Boston case is the complete absence of any explicit language in the teacher's collective bargaining agreement concerning desegregation or its consequences. When student integration began in Boston, the court overruled existing transfer language

in the teacher union's contract. Yet, the parties never responded by including in the collective bargaining agreement any language that addresses either student or faculty integration.

With regard to minority faculty hiring, actions taken by the school administration limited its magnitude and frustrated its intent by hiring new minority faculty into provisional teaching jobs. The teachers' union meanwhile, has shown little resistance to the expansion of provisional status employees and has participated in the creation of a number of measures that exaggerate the differentiation between permanent and provisional teachers.

3) Factors That Contributed to the Variations In Regulatory Performance

When comparing the experiences in the three school systems two criteria stand out as indicators of the quality of the regulatory intervention. One criterion is the teacher union's attitude toward third-party intervention. In both Los Angeles and Dade County, the unions accepted and in some instances strongly supported the court's desegregation goals. However, in Boston, throughout the desegregation process the teachers' union has remained antagonistic toward court intervention.

A second criterion is the extent to which the union participates with the court, the school administration, and community groups in problem-solving activities. Here, as well, the Los Angeles and Dade systems are superior to Boston. The Los Angeles and Dade County public schools have devised a larger number and wider range of problem-solving activities as part of desegregation when compared to Boston.

What caused these differences in the performance of the court's regulatory intervention in labor relations in the three school systems? My answer to this question requires that a distinction be made between two

broad categories of causal factors. One set of causal factors can be called environmental variables because each was largely not under the control of the parties once the desegregation process began. These environmental factors include the racial composition of the faculty at the time desegregation began; whether or not the teachers had formal bargaining rights at the time desegregation was started; and the economic conditions that prevailed in the school system during desegregation.

Black teachers were a significant political force in support of desegregation in Los Angeles and Dade County. In both, when the desegregation process began there was already a sizeable number of black teachers in each school system. Black teachers comprised roughly 18% of the full-time teachers in both of these systems at the start of desegregation. In Boston, in contrast, black teachers represented only 7% of the teacher workforce at the time desegregation began.

But the number of black teachers is not the only important influence. Black teachers were a significant political force within the Dade County school system not only because their numbers were large. The merger of black and white teacher associations that had preceded the start of desegregation in Dade was a critical factor in shaping the accommodative stance taken by Dade teachers toward integration.

The accommodative stance toward desegregation taken by teachers' unions in Los Angeles and Dade County also was encouraged by the fact that in those systems desegregation occurred at a time when the teachers' union lacked formal collective bargaining rights. In both cases, state laws did not then grant bargaining rights to local public school teachers. Deprived of formal bargaining rights, participation in a consultative relationship with the federal court during desegregation was important to the teachers'

unions for two reasons. First, participation satisfied some of the unions' unfulfilled demands to be involved in school decision making. Second, the unions used their participation with the court to strengthen their demands for full collective bargaining rights. In Los Angeles and Dade County, the teachers' unions went to the public with appeals that their involvement in desegregation illustrated their responsibility and entitled them to more extensive collective bargaining privileges.

That was not the case in Boston where by the time desegregation started (1973), the teachers' union already possessed full collective rights and had signed formal contracts for eight years. In Boston, the teachers' union knew that it could affect decisions through the collective bargaining process. The security provided by their collective bargaining agreement in a sense gave the Boston Teachers Union the freedom to engage in a combative relationship with the federal court.

The point is not that collective bargaining is a hindrance to accommodation during desegregation. Later I discuss the helpful role that the integration of collective bargaining and court activity played in the Los Angeles and Dade County school systems. Rather, my claim is that a firmly entrenched system of collective bargaining may provide a teachers' union with an inclination to resist the beginning of third-party intervention in labor-management relations.

Another background factor that shaped the response to desegregation in all three school systems was economic conditions. In Boston, the economic environment produced an atmosphere of contraction which made problem solving and the search for areas of joint gain difficult. A contractionary environment was produced in Boston by massive declines in enrollment. Consequently, there always existed a threat that the Boston School

Committee would respond to these enrollment declines by laying off a substantial number of teachers. In fact, as mentioned earlier, the number of teachers in the Boston system has remained stable since the start of desegregation. Yet, the threat of significant layoffs was always around. In response to that threat the BTU was extremely protective of the rights of senior teachers and resistant to policies that might even slightly erode the job security of those senior teachers.

In Los Angeles and Dade County, enrollment trends did not create a contractionary environment. Enrollments were expanding in the aftermath of the start of desegregation in Dade County. Over the same period, the number of full-time teachers increased in Dade schools. As a result, even though the system was not under a court order to do so, it was relatively easy for the Dade system to expand employment opportunities for minorities. Enrollments in Los Angeles schools have been declining during desegregation, although not nearly on the scale of the decline in Boston.[76] Over this same time period the number of full-time teachers in the Los Angeles system has remained constant.

One could then argue that the contrasting economic environments within the three school systems set the tone for regulatory performance in these three school systems. There are, however, a number of issues that call into question the simple notion that the economic environment was a determinant causal factor. First, as mentioned earlier, until the spring of 1981 the Boston Teachers Union did not actually face layoffs. Enrollments may have been declining massively over the 1970s, but the number of teachers in the system was not reduced concomitantly through layoffs. Second, even in the face of declining enrollments, there were a number of potential areas of agreement between the federal court and the

BTU around which problem solving could have occurred. These included the court's success in assuring full funding for the school year in 1976 and the limitations imposed by the court on the Boston School Committee's attempt to close schools in 1979. Furthermore, in the early phases of desegregation in Boston, there were a number of other potential agreements that could have been forged between the court and the teachers' union. The parties could have arranged some sort of orderly teacher transfer mechanism as was utilized in both Los Angeles and Dade County. Likewise, the court, the teachers' union, and the school administration could have fashioned mechanisms to increase minority hiring without having to hire minority teachers on a provisional contract basis. The question that remains is why the parties so rarely took advantage of the potential areas of joint gain that did arise during the desegregation process in Boston.

Part of the explanation lies in steps taken by the parties during the desegregation process. Particular actions which spurred compromise in Los Angeles and Dade County include the use of incentives to create the possibility of joint gain; the extent to which agreement was reached early on; and the degree to which there was formal integration of collective bargaining and court-directed activities. These actions, in contrast to the environmental factors discussed above, were under the direct control of the parties.

Although the economic environment within each school system was important because it influenced the extent to which situations arose where one party had to lose, to some degree the parties themselves could create expansionary environments. An example is provided in Los Angeles where the state's desegregation budget was used to encourage compromise. Money from that state budget functioned as a "carrot" that enticed the UTLA to accept

the Urban Teachers Classroom Program. State payment of the salary differential within the UCTP thereby created a bargaining situation in which the court, the school administration, and the teachers' union could gain. With the possibility of joint gain, it was much easier for the parties to reach agreement on some of the more contentious issues surrounding the UCTP.

The involvement of the UTLA in the design of the Urban Classroom Teachers Program set a positive tone that facilitated the discussion of problems that arose later in the Los Angeles desegregation process. In that way, the manipulation of state funding had the long-run effect of encouraging cooperative bargaining as well as solving some of the district's short-run teacher transfer problems.

In Dade County, it was agreement reached early on regarding the faculty integration program that set the tone for a cooperative relationship. There, the court's provision of seniority rights as part of mandatory transfers in the teacher integration program facilitated teachers' acceptance of mandatory transfers and encouraged the union's active support of voluntary teacher transfers. The union's involvement in the implementation of teacher transfers then eased reconciliation during the later phases of Dade's desegregation plan.

In contrast, the lack of early agreement in the Boston system created a noncooperative atmosphere. By failing to reach agreement in the early stages of desegregation when the economic environment was more favorable, the parties in Boston were further handicapped in their efforts to cope with the difficult conditions that arose later on in Boston. The contractionary fiscal environment that developed in Boston in 1981 would have been difficult to handle even if the parties had approached those problems with the background of a good working relationship.

In both Los Angeles and Dade County, parts of the desegregation program and agreed-upon modifications on personnel policies are spelled out in the teacher union's collective bargaining agreement. Inclusion within the collective bargaining agreement signalled formal acceptance by the union of these desegregation programs. The integration of collective bargaining and court-directed programs also facilitated adjustment to the desegregation process. By describing the programs in the contract, the union and the school administration could rely on the contract's grievance procedure to adjudicate disagreements that arose over the implementation of these policies.

In Boston, the absence of any contract language concerning the desegregation program operated as a continuing source of confusion. Without contract language concerning issues such as faculty integration, the jurisdiction of disputes over these issues remained unclear. Earlier, a grievance that illustrates that confusion was reviewed. In that instance, the existence of contract language regarding faculty integration might not have prevented the grievance from arising but at least it would have sped up the process and removed the confusion that surrounded the eventual shuffling of the case between the court and the arbitrator.

It could be argued that a cooperative relationship did not emerge between the federal court, the school administration, and the Boston Teachers Union because of the level of citizen opposition toward desegregation and busing that prevailed in Boston. There was a lot of citizen opposition to desegregation in Boston, but it should be recognized that similar opposition existed in Los Angeles. By 1979, the Los Angeles school board was dominated by individuals who opposed busing. Furthermore, one of the most active community groups in the Los Angeles area was

BUS-STOP, a group opposed to busing and Judge Egly's desegregation orders. Nor was the end of the dual school system readily accepted by all of the Miami community. Yet, in Dade County and Los Angeles the parties involved in labor-management relations were able to create a cooperative relationship that was separated from surrounding community opposition to desegregation.

It is more difficult to assess the impact of the various political environments that surrounded the three school systems. In many ways the combative relationships that prevailed in Boston during desegregation are representative of the style of Massachusetts politics. That style is characterized by acrimonious fights between the parties involved in any political decision and the postponement of realistic decision making until the arrival of a crisis point. Rarely does patient problem solving occur as part of that mode of governance. Illustrations of this process are provided in the recent financial crises within the Massachusetts Bay Transit Authority, the Boston city government, and the Massachusetts State government. For the court, the Boston Teachers Union, the school administration and community groups to have forged a cooperative relationship would have required that the parties break out of that pattern.

The parties in the Los Angeles school system, on the other hand, had the benefit of operating in a state noted for its "reform" style of government. One would expect that a number of the features of that reform style, such as a greater emphasis on planning, would facilitate a more cooperative response to regulatory intervention. Yet, much cooperation occurred in Dade County where the style of politics is not of the California reform mode. As is the case for the economic environment, I am

led to the conclusion that the political environment is an influential but not a determining causal factor.

At a time when the two leading national teacher organizations are competing actively in representation election throughout the country, it is important to consider the impact of the policies of those national organizations on the desegregation process. This sample does contain a mix of national affiliations. In Dade County the Classroom Teachers Association was affiliated with the National Education Association throughout the 1960s. However, when the Classroom Teachers Association gained full bargaining rights in 1974, its affiliation shifted to the American Federation of Teachers. The Boston Teachers Union has remained affiliated with the AFT since the local union's inception in 1965. In Los Angeles since 1974, the United Teachers has maintained a form of dual affiliation where individuals within the UTLA are free to join either the AFT or the NEA, and the UTLA itself maintains no formal affiliation with any national teachers' union.

It is my conclusion, however, that the national policies of the AFT and the NEA had no substantive impact on the conduct of union policies with respect to desegregation in the three school systems under study. The policies taken by the teachers' unions in the three systems were influenced by political pressures within the local unions, teacher attitudes, and community pressures, but not by the national teacher organizations.

4) A Compaprison of Regulatory Intervention and Arbitration

This study reveals some of the difficulties the federal court faced in its role as a regulator of labor-management relations. Many of the court's problems derive from the fact that the court had to perform two functions. On the one hand, the court operated as an enforcer of orders that at times

were perceived to be distasteful to both management and labor. In addition, the court was trying to encourage the participation and cooperation of labor and management in the design of the desegregation plan. When attempting to satisfy these roles the court could adopt elements of the mode of operation utilized by grievance or interest arbitrators, but in some ways the court had to forge a role that superseded either of those models.

During the desegregation process in the three school systems, the court at times had to operate as an enforcement agency because parts of the court's desegregation orders were opposed by labor and management. An example is provided in the dispute concerning minority faculty hiring in Boston. There, at the start of school desegregation, both the school administration and the teachers' union opposed the court's efforts to increase the representation of blacks within the school faculty. As this study shows, the opposition to the court's hiring orders included subtle maneuvers such as the shift to the employment of provisional status teachers. In this role of an enforcer of orders that both labor and management opposed, the court operated in a capacity that is not common to either grievance or interest arbitration. An arbitrator, in contrast, typically is in the position of compromising the demands of labor and management.

The desegregation process does, however, also contain instances in which the participation of labor and management in the design of third-party orders provides benefits, as is the situation frequently during grievance and interest arbitration. The Urban Classroom Teachers Program in Los Angeles is an example of a creative problem-solving activity whose design required the expertise and involvement of the affected parties. The

often-stated dictum that labor and management work better with policies they help to design is strongly supported by the experiences in these three school systems.

The difficult issue is how the regulating party can encourage participation while at the same time administer distasteful regulations. The experiences in Los Angeles and Dade County do suggest some tactics that could be utilized to encourage cooperation. These include the manipulation of financial incentives to provide situations of joint gain. Furthermore, events in these two cities suggest the value of informal multipartite discussions and early agreement in the regulatory process. Yet, there may be no simple answer as to how regulatory intervention can balance its two roles. At a time when regulatory intervention within collective bargaining in the public and private sectors is on the rise, this is a problem worthy of more extensive consideration.

FOOTNOTES

1. The history of these efforts is reviewed in Boyd Bosma, "Planning for and Implementing Effective School Desegregation: The Role of Teachers Association", National Institute of Education, U.S. Department of Education, November 1980.

2. Ibid, pp. 6-8.

3. For a review of the law in this area see, Bonnie G. Cebulski, "Affirmative Action Versus Seniority -- Is Conflict Inevitable?", California Public Employee Relations Monograph Series, 1977.

4. A legal history of the Los Angeles desegregation case is provided in, "Opinion, Findings of Fact and Conclusions of Law After Hearing", Judge Paul Egly, Superior Court of the State of California, Crawford vs. Board of Education of City of Los Angeles, July 7, 1980, pp. 6-14.

5. "Racially Isolated Minority Schools Order", Judge Paul Egly, June 21, 1979.

6. Letter from Floyd Pierce, Director, Office for Civil Rights, Region 9 to Dr. William Johnston, Superintendent of Schools, L.A. Unified School District, March 5, 1976, p.1.

7. This plan is outlined in a letter from Dr. William Johnston to Floyd Pierce, April 5, 1976, p.2.

8. The viewpoints of the school administration and the UTLA regarding faculty integration were gathered in interviews conducted by the author in January 1981, with the staff of the Associate Superintendent's Office for Staff Relations, L.A. Unified School District and the executive officers of the UTLA.

9. "Summary of Transfers Into Areas", as of November 1976, Apendix B, Staff Integration Program, L.A. Unified School District.

10. "Summary of Transfers Into Areas", progress report to October 1977, Appendix C, Teacher Integration Program, L.A. Unified School District.

11. The teacher integration transfer plan is described in "1979-80 Agreement -- Los Angeles Unified School District and United Teachers - Los Angeles", Appendix B.

12. "Summary of Transfers Into Areas", as of October 6, 1978, Teacher Integration Program, L.A. Unified School District.

13. The Urban Classroom Teachers Program is outlined in the "1979-80 Agreement -- Los Angeles", op. cit., Article II-A, pp. 42-46.

14. "Summary of Transfers Into Areas", progress report to February 20, 1980, Teacher Integration Program, L.A. Unified School District.

15. ff. 8.

16. ff. 8.

17. See, "Petitioners Proposed Program of Assistance to Minority Segregated Schools for September 1980," Mary Ellen Crawford et al. petitioners, August 6, 1980. Salary differentials of this sort had been opposed on similar grounds in New York City. See David Rogers, 110 Livingston Street, Random House, New York, 1968, p. 196.

18. "Pendente Lite Minute Order on Proposed Programs for Segregated and Racially Isolated Minority Schools", Judge Paul Egly, August 28, 1980, p.6.

19. See, "Petitioners Proposed Program of Assistance", op. cit.

20. For example, see 110 Livingston Street, op. cit.

21. "1979-80 Agreement", op. cit., Appendix C.

22. "Opinion, Findings of Fact", op. cit., p. 67.

23. "Order After Trial Upon Plan II and the Proposed All Voluntary Plan", Judge Paul Egly, July 7, 1980.

24. "Collective Bargaining Issues Related to Overcrowded Schools, Class Size, and to English Use Limitations, (NES/LES)," Joint Status Report by Los Angeles Unified School District and United Teachers -- Los Angeles, submitted to Judge Paul Egly, August 19, 1980.

25. "1979-80 Agreement", op. cit., p. 112.

26. For example, see "Petition for Writ of Prohibition and/or Mandate or Other Extraordinary Relief", United Teachers of Los Angeles, submitted to the Court of Appeal of the State of California, Second District, September 10, 1980.

27. These and related figures are derived from "EEO-5" reports submitted by the L.A. United School District to the E.E.O.C. in various years.

28. "Settlement Agreement", Aguilar et al. Plaintiffs, vs. L.A. Unified School District, United States District Court, April 2, 1979.

29. See "Legal Report", United Teacher, published by United Teachers -- Los Angeles, May 4, 1981, p.3.

30. A history of the Dade desegregation case is in, "Ethnic/Racial Characteristics of Pupils and Staff", Office of Management and Budget, Dade County School Board, May 1980, pp. V-VI.

31. See "CTA Recommendations for Integration", Dade County Teacher, published by the Classroom Teachers Association of Dade County, August 1969, p.5.

32. "Editorial", Dade County Teacher, December 1969, p.1.

33. For a history of the CTA see, "Official CTA Background and Fact Bulletin on School Desegregation", Dade County Teacher, February 1970, p.5.

34. "CTA Position on Faculty Integration", Dade County Teacher, December 1969, p. 11.

35. "Plan for Staff Desegregation in the Dade County, Florida, Public Schools", Florida School Desegregation Consulting Center, January 7, 1970.

36. "Contract Between the Dade County Public Schools and the United Teachers of Dade, September 1977-October 1980," Addendum, pp. 54-59.

37. Ibid, Article 12 - Transfers, pp. 12-14.

38. This is the estimate of officials in the Office of Legislative and Labor Relations, Dade County Public Schools.

39. These and later figures are from, "Ethnic/Racial Characteristics of Pupils and Staff", op. cit., various years.

40. "Contract Between the Dade County Public Schools", op. cit., Addendum, pp. 60-63.

41. "CTA Position on Faculty Integration", op. cit., p.11.

42. The Boston desegregation case is discussed in, "A Citizen's Guide to School Desegregation Law," National Institute of Education, Washington, D.C., July 1978, pp. 39-41, and Desegregating the Boston Public Schools: A Crisis in Civic Responsibility, U.S. Commission on Civil Rights, Washington, D.C. 1975. Judge Garrity's desegregation plan is reported in "Memorandum of Decision and Remedial Orders," U.S. District Court of Massachusetts, Civil Action No. 72-911-G, Morgan V.

Hennigan, D. Mass., June 5, 1974, 379 F. Suppl. 410, 482. Also see "The Boston Case" by Ralph R. Smith in Limits of Justice: The Court's Role in School Desegregation, H. Kalodner and J. Fishman eds., Ballinger Press, Cambridge, Massachusetts, 1978.

43. See, "The Desegregation Case", The Boston Union Teacher, published by the Boston Teachers Union, March 1974, p.1. For an earlier discussion of the union's interaction with the desegregation process see Harry C. Katz, "The Boston Teachers Union and the Desegregation Process", in Public Sector Labor Relations, Lewin et al. eds., Second Edition, Horton Publishing, Glen Ridge, N.J., 1981.

44. See stories on desegregation in The Boston Union Teacher, October 1974 and March 1975.

45. "Memorandum and Amended Order on Teacher Assignments and Transfers", Judge W. Arthur Garrity, United States District Court of Massachusetts, Morgan et al. vs. Kerrigan et al., August 20, 1975, p.1.

46. Ibid, p.3.

47. See "Memorandum of Defendant Boston Teachers Union", Boston Teachers Union, submitted to the U.S. District Court, May 15, 1978, and "School Defendants' Memorandum Regarding Excessing Policy", Boston School Committee, submitted to U.S. District Court, May 15, 1978.

48. See "Order on Hiring," Judge W. Arthur Garrity, July 31, 1974. In this and later hiring orders the court stipulated that in meeting the one black for each white requirement, the hiring of other minorities would not count as the hiring of either a black or a white.

49. The number of provisional teachers was 698 (1973-74), 714 (1974-75), 947 (1975-76), 1050 (1976-77), 857 (1977-78), 1059 (1978-79). These figures are from "City Defendant's Report on Reassignments and Hiring of Teachers," submitted to U.S. District Court of Massachusetts, various dates.

50. The 1978-80 collective bargaining agreement between the BTU and the School Committee states that regarding provisional teachers, "...in no event shall they be placed on a step higher than the third step of the bachelor's salary schedule." See the "Contract Between the Boston Teachers Union and the School Committee of the City of Boston," September 1, 1978, Article 2, Section A-11(a), p.9. Traditionally, provisional teachers had been hired by the school department to temporarily fill vacancies created by teachers on leave or sabbatical.

51. For evidence of price responsiveness in the municipal budgetary process see, Harry C. Katz, "The Municipal Budgetary Response to Changing Labor Costs: The Case of San Francisco," Industrial and Labor Relations Review, July 1979, vol. 32, no. 4, pp. 506-519.

52. These figures are from the "Report of the Numbers of White, Black and Other Minority Permanent and Acting Administrators," Boston School Committee, March 14, 1979, Table i.

53. "Memorandum and Further Orders on Faculty Recruiting and Hiring", Judge W. Arthur Garrity, July 5, 1978.

54. "Plaintiffs' Motion for Further Relief and Supplementary Orders Enforcing the January 28, 1975 Orders on Faculty Recruiting and Hiring," submitted to U.S. District Court of Massachusetts, March 31, 1978.

55. Enrollment (membership) figures for the years 1965 through 1975 are available in, "Annual Statistics of the Boston Public Schools," Boston School Committee, various years. Figures for 1981 are from "Analysis of Students by Race by Grade", January 15, 1980, Information and Statistics Section, Boston School Department.

56. These figures are from "City Defendant's Report on Reassignment and Hiring of Teachers," submitted to U.S. District Court of Massachusetts, various dates. Unfortunately, consistent numbers of teachers in the system prior to 1973 are not available.

57. In March 1981, 117 provisional teachers were laid off in a manner that preserved the existing percentage of black teachers.

58. "Conditional Order Modifying Faculty Desegregation Orders," Judge W. Arthur Garrity, June 2, 1981.

59. See Morgan v. Kerrigan, 530 F. 2nd 431 (1976).

60. "Boston Teachers Union's Reponse to 'Plaintiffs' Motion," submitted to U.S. District Court of Massachusetts, April 18, 1978.

61. Ibid, p. 2.

62. "Memorandum In Support of Motion for Modification of Faculty Desegregation Orders", Boston School Committee, submitted to U.S. District Court of Massachusetts, May 14, 1981.

63. "Opposition of Boston Teachers Union to School Defendant's Motion for Modification of Faculty Desegregation Orders", submitted to U.S. District Court of Massachusetts, May 26, 1981.

64. A reading of old BTU newspapers suggests that there has never been an executive officer of the union who was either black or a provisional teacher.

65. These figures are derived from the "City Defendant's Report", op. cit., March 4, 1981.

66. Contract Between the Boston School Committee and the Boston Teachers Union, September 1980 - August 1983", Article 3C, Section 17.

67. This two-class system is described in Paul T. Hartman, Collective Bargaining and Mechanization, University of California Press, Berkeley, 1973.

68. See the June 8, 1978 letter of the BTU's AFT Caucus on Desegregation and Equality in Education to the general BTU membership.

69. See Table 1.

70. Aides were included in the BTU as of 1973 and the collective bargaining agreement between the BTU and the School Committee included separate provisions covering aides as of 1974.

71. See "Summary of Total Staff by Assignment, Sex, and Race," in "Selected Annual Statistics of the Boston Public Schools 1975-76," Boston School Committee, Table 46, p. 63.

72. The campaign planks of the New Unity Coalition and election results are reported in The Boston Union Teacher, May 1979, June 1979, and July 1979. In a primary election nine candidates from the New Unity Coalition running for spots on the executive board qualified for the final ballot.

73. For example, see "Intervenors' Memorandum of Law in Support of Its Motion for Compliance With Faculty Desegregation Orders", Concerned Black Educators of Boston, submitted to the U.S. District Court of Massachusetts, June 1981.

74. For example, see John T. Dunlop, "The Limits of Legal Compulsion", Labor Law Journal, February 1976, vol. 27, no. 2, pp. 67-74. For a different kind of criticism see William B. Gould, Black Workers in White Unions, Cornell University Press, Ithaca, New York., 1977, especially Chapter 11.

75. Dade County school enrollments climbed from 233,222 in 1968 (the year desegregation started) to 246,534 in 1974. Over the same period, the number of full-time teachers increased from 9482 to 11,635.

76. Enrollments in the Los Angeles school system declined from 613,460 in 1975 to 542,482 in 1979.